IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

-

WRIT APPEAL NOs. 497 AND 636 OF 2005

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WRIT APPEAL No. 497 OF 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21.02.2005 in WVMP No.49 of 2005 in WPMP No.32319 of 2004 in W.P.No.24469 of 2004 on the file of the High Court.)

Between:

The University of Hyderabad, (P.O.Central University, Gachibowli, Hyderabad) rep.by its Registrar.

..... APPELLANT

AND

1 Prattipati Mathew, S/o.Prattipati Saheb,
R/o.H.No.240, MIG-1st phase,
BHEL, Ramachandrapuram, Hyderabad.

2 D.Vijayalakshmi, Lecturer, Department of Telugu, School of

Humanities, University of Hyderabad, (P.O.Central University,

Gachibowli, Hydeabad)

3 T.Ramakrishna, S/o.Late T.Munivenkatappa,
Departnet of Telugu, School of Humanities, University of Hyderabad

(P.O.Central University,
Gachibowli, Hyderabad).

.....RESPONDENTS

Counsel for the Appellant: MR.C.V.NAGARJUNA REDDY

Counsel for the Respondent No.1 : MR.G.V.SHIVAJI

WRIT APPEAL NO : 636 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21.02.2005 in WVMP No.49 of 2005 in WPMP No.32319 of 2004 in W.P.No.24469 of 2004 on the file of the High Court.)

Between:

T. Ramakrishna, S/o. Late T. Munivenkatappa,
Department of Telugu, School of Humanities, University of Hyderabad

(P.O Central University, Gachibowli, Hyderabad)

..... APPELLANT

AND

1. Prattipati Mathew, S/o. Prattipati Saheb,
R/o. H.No. 240, MIG-1st Phase, BHEL, Ramachandrapuram,

Hyderabad.

2. D. Vijayalakshmi,
School of Humanities, University of Hyderabad

(P.O Cenral University, Gachibowli, Hyderabad)

3. University of Hyderabad (P.O Cenral University,

Gachibowli, Hyderabad) Rep. by its Registrar.

.....RESPONDENTS

Counsel for the Appellant: MR.R.RADHA KRISHNA REDDY

Counsel for the Respondent No.1: MR.G.V.SHIVAJI.

Counsel for the Respondent No.3: MR.C.V.NAGARJUNA REDDY

The Court made the following :

C O M M O N O R D E R

(Per Justice J.Chelameswar)

These two writ appeals arise out of an order dated 21.02.2005 passed in WVMP No.49 of 2005 in WPMP No.32319 of 2004 in W.P.No.24469 of 2004.

The University of Hyderabad is the appellant in W.A.No.497 of 2005, which had issued an advertisement dated 28.01.2004 inviting applications from all the eligible candidates for various teaching posts in the University as indicated in the said advertisement. The posts, which are relevant for the purpose of present appeals, are : one Professor in Telugu, one Lecturer in Telugu; one in the branch of Comparative Literature and one in Folk Culture Studies. It appears that the 1st respondent herein applied for all the above-mentioned posts. The 2nd respondent herein applied for the post of Lecturer in the Department of Telugu, whereas the 3rd respondent herein applied for the post of Professor in the Department of Telugu. The 2nd respondent was selected for the post for which he had applied. The 3rd respondent was not successful in getting selected to the post of Professor of Telugu, but the appellant-University offered him the post of Reader in Telugu, which was not advertised in the notification mentioned above. But the said vacancy, we are informed had arisen as a consequence of one of the Readers in Telugu Department being selected as a Professor.

The 1st respondent was unsuccessful in securing any employment and hence the above mentioned writ petition.

Various grounds were raised in the writ petition. One of the grounds of attack in the writ petition is that the University filled up the post of Reader in Telugu without even having advertised and called for the applications for such post, and it is the grievance of the writ petitioner that if there were a notification, the writ petitioner would also have competed for the post of Reader in Telugu. Various other grounds were also raised in the writ petition with which we are not concerned at this stage.

While admitting the writ petition, the learned single Judge of this Court by an order dated 29.12.2004 suspended the order dated 08.11.2004 of the appellant herein by which the appellant appointed respondents 2 and 3 herein as a Lecturer and Reader respectively in the Department of Telugu. In fact, the said order was limited for a period of six weeks insofar as it is concerned with 3rd respondent herein. We are informed that there was no extension of the said order subsequently.

However, the 3rd respondent herein filed WVMP No.49 of 2005 in W.P.No.24469 of 2004 praying that the interim orders dated 29.12.2004 be vacated. Eventually the matter came to be heard by a learned single Judge and by the order under appeal dated 21.02.2005 the learned single Judge recorded as follows:

> *"Heard both sides. Having regard to the fact that admittedly the post of the contesting respondents claiming is the one for which no notification has been issued, I do not find any justification to vacate the interim order granted by this Court earlier.*
>
> *Interim order is made absolute.*
>
> *However having regard to the urgency expressed, office is directed to post the Writ Petition for final hearing on 21-03-2005."*

and hence the present writ appeals were preferred by the 1st and 3rd respondents in the writ petition.

The question whether the University such as the appellant herein could fill up a vacancy, which is not advertised for the qualified candidates, could be filled up or not when such vacancy arises as a consequence of an on-going recruitment process for the teaching of posts of University, is a larger question, which is required to be considered in the writ petition, which is still pending. The fact remains that the 3rd respondent herein competed for the post of Professor in Telugu and we are informed that his name finds place in the list consisting of the three names recommended by the Selection Committee to the University for appointment. But, the University eventually did not appoint the 3rd respondent and the writ petitioner - 1st respondent did not succeed when he competed for the post of a Lecturer in Telugu Department and Folk Culture Studies.

In the circumstances, we do not see any reason to suspend the orders of the appointment of respondents 2 and 3 herein at the instance of the 1st respondent herein, more particularly, the consequence of such a suspension would create hardship for the students in those Departments and which in turn, would create disturbance in the administration of the appellant-University and accordingly the order under appeal dated 21.02.2005 made in

WVMP No.49 of 2005 in WPMP No.32319 of 2004 in W.P.No.24469 of 2004 is set aside and the interim orders dated 29.12.2004 passed in WPMP No.32319 of 2004 in W.P.No.24469 of 2004 is hereby vacated.

However, this Court noticed from the order under appeal that the learned single Judge directed that the writ petition itself be posted on 21.03.2005 for final hearing. Obviously, in view of the pendency of the appeals, the writ petition was not listed anywhere. Therefore, we direct the office to list the Writ Petition No.24469 of 2004 for final hearing before the appropriate Court on 18th April, 2005.

The 3rd respondent will not be entitled to claim any equity in the writ petition.

JUSTICE J.CHELAMESWAR

JUSTICE GHULAM MOHAMMED

28TH MARCH, 2005

PGS

To

1 Prattipati Mathew, S/o.Prattipati Saheb,
R/o.H.No.240, MIG-1st phase,
BHEL, Ramachandrapuram, Hyderabad.

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Departnet of Telugu, School of Humanities, University of Hyderabad

(P.O.Central University,
Gachibowli, Hyderabad).

4. The Registrar,

University of Hyderabad (P.O Cenral University,

Gachibowli, Hyderabad) Rep. by its Registrar.

5. Two CD copies.

6. One copy to Section Officer, Writ Filing Section, High Court of A.P.,

Hyderabad.

THE HONOURABLE SRI JUSTICE

J.CHELAMESWAR

AND

THE HONOURABLE SRI JUSTICE

JUSTICE GHULAM MOHAMMED

WRIT APPEAL No. 497 OF 2005

AND

WRIT APPEAL NO : 636 of 2005

(Per Sri Justice J.Chelameswar)

28th MARCH, 2005